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of all Forms of
Racial Discrimination

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OF RACIAL DISCRIMINATION
Forty-third session

CONSIDERATION OF REPORTS SUBMITTED BY STATES PARTIES
UNDER ARTICLE 9 OF THE CONVENTION

Twelfth periodic reports of States parties due in 1992

Addendum

NIGERIA*

[2 March 1993]

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* This report contains the tenth, eleventh and twelfth periodic reports which were due, respectively, on 5 January 1988, 5 January 1990 and 5 January 1992. For the eighth and ninth periodic reports submitted by the Government of Nigeria and the summary records of meetings of the Committee at which those reports were considered, see the following documents:

Eighth periodic report - CERD/C/118/Add.14 and Add.26 (CERD/C/SR.720);
Ninth periodic report - CERD/C/149/Add.25 (CERD/C/SR.851-852).

PART I - GENERAL

1. In accordance with the provisions of article 9 of the International Convention on the Elimination of All Forms of Racial Discrimination the Government of Nigeria submits the follcwing report in respect of the tenth, eleventh and twelfth periodic reports in one volume.

2. During the period covered by this report, Nigeria continued in its efforts to protect the right, dignity and worth of human beings thus maintaining the tenets of the Convention. The basic principles governing political, economic, social and cultural life in Nigeria are well defined in the 1979 Constitution of the Federal Republic of Nigera. It is, however, important to note that though Nigeria promulgated in 1989 Constitution Decree No. 12, the provisions thereof are not fully operative. In accordance with its provisions, commencement date may be appointed later where the circumstances so warrant; consequently, the commencement date for the 1989 Constitution has been fixed for 27 August 1993. Reference shall therefore be made only to the 1979 Constitution.

3. The Constitution provides the general legal framework within which racial discrimination as defined in article 1 (1) of the Convention is prohibited and eliminated in Nigeria's fundamental objectives and directive principles of State policy. In section 19 of the Constitution, Nigeria's fundamental objectives and directive principles on foreign policy objectives States the following:

> "The State shall promote African Unity, as well as total political, economic, social and cultural liberation of Africa and all other forms of international cooperation conducive to the consolidation of universal peace and mutual respect and friendship among all peoples and States, and shall combat racial discrimination in all its manifestations."

This foreign policy reflects in all our dealings with the international community, hence Nigeria does not sponsor, defend or support racial discrimination of any form. Through this policy, integrationist, multiracial organizations and movements are encouraged.

4. The Nigerian Constitution in Section 39, which remains the cornerstone for the implementation of the Convention, further provides as follows:

(a) A citizen of Nigeria of a particular community, ethnic group, place of origin, sex, religion or political opinion shall not, by reason only that he is such a person:

(i) be subjected either expressly by, or in the practical application of, any law in force in Nigeria or any executive or administrative action of the Government to disabilities or restrictions to which citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions, or political opinions are not made subject; or

(ii) be accorded either expressly by, or in the practical application of any law in force in Nigeria or any such executive or administrative action any privilege or advantage that is not accorded to citizens of Nigeria of other communities, ethnic groups, places of origin, sex, religions or political opinions.

(b) No citizen of Nigeria shall be subjected to any disability or deprivation merely by reason of the circumstances of his birth.

PART II - INFORMATION RELATING TO ARTICLES 2 TO 7 OF THE CONVENTION

5. Information on the legislative, judicial, adminstrative or other measures which give effect to the provisions of articles 2 to 7 of the Convention.

Article 2

6. The present administration has since its inception carefully handled ethnic, religious and linguistic matters in its efforts to achieve national unity. Section 35 of the Nigerian Constitution provides for the individual's right to freedom of thought, conscience and religion. "No person attending any place of education shall be required to receive religious instructions or to take part in or attend any religious ceremony or observance if such instruction, ceremony or observance relates to a religion other than his own, or a religion not approved by his parent or guardian."

7. Nigeria's Constitutional provisions on citizenship in Chapater III are liberal and well spelt out, and it is so applied in practice. Other than by birth, a person may qualify for Nigerian citizenship by registration and naturalization.

8. To further demonstrate our support for the elimination of racial discrimination, the policy against dual citizenship was discontinued and Chapter III of the Constitution was amended accordingly. Specifically, former Section 26 subsection (1) which provided against dual citizenship was amended by a new Section 26 subsection (1) of the Constitution (Suspension and Modification) (Amendment) (No. 3) Decree 1992 to state as follows:

> Section 26(1) "A citizen of Nigeria shall forfeit his citizenship only if, being a citizen of Nigeria otherwise than by birth, he acquires the citizenship of another country."

9. Nigerians are generally warm people and relate very well with other nationals. Nigerian laws are quite receptive of other nationals as well as those who acquire Nigerian citizenship. Integrationist multiracial organizations and movements are encouraged. There is record of many cultural exchange programmes and exchange of visits by different cultural troupes between Nigeria and many other countries.

10. In the area of the economy, certain restrictions which might have discouraged free enterprise under the indigenization Decree of 1977 were removed by the Nigerian Enterprises Promotion Decree of 1989 repealing the former, and states in section (1) subsection (2) that an alien may be the

owner of any enterprise specified in the schedule to this Act if the capitalization involved is not less than naira 20 million. Notably many of our construction companies are manned by other nationals.

11. Our educational programme involves the policy to promote and ensure mass literacy. Section 18 of Nigeria's Constitution states that the "Government shall direct its policy towards ensuring that there are equal and adequate educational opportunities at all levels." Government shall strive to eradicate illiteracy; and to this end Government shall as and when practicable provide:

(a) Free, compulsory and universal primary education;

(b) Free secondary education;

(c) Free university education; and

(d) Free adult literacy programme.

This section remains unaffected by the Constitution (Suspension and Modification) Decree No. 17 of 1985. The nomadic tribes of Nigeria constituted one of such priorities. Hence, Nomadic education was introduced along with the establishment of National Commission for Nomadic Education Decree No. 41 of 1989.

12. The fact that Nigeria comprises diverse ethnic groups has always formed part of governmental considerations in formulating policies. The basic federal and State governmental structure had always taken care of multi-ethnic issues. Ever since the pre-independence period, consideration for minority groups and ethnic multiplicity had always been the policy.

13. Nigeria, historically started off with only the north and south regions, but in order to give way to reality and true demands of governance, the Federal Republic of Nigeria now comprises 30 States and one Federal Territory. The reason for the creation of more States is not far-fetched. Many more concerns of each State are now better attended to and looked after. It has also given rise to development and progress, in fact the seeming distant roots are better attended to. There is a general awareness now as to communal development and progress. This has also brought communal responsibility for the enjoyment of all.

Article 3

14. As stated in the previous periodic reports, Nigeria continues to be in the forefront of the fight against racism and apartheid, and retains the Chair of the United Nations Special Committee against Apartheid, a post which has been held by Nigeria for years. Nigeria is also a member of the Commonwealth Eminent Persons Group (EPG) on South Africa. Since the United Nations lifted some sanctions against South Africa, efforts are now being made based on the on-going negotiations under the umbrella of the Convention on a Democratic South Africa (CODESA) to embark on normalizing economic and other relations

with South Africa. For example, in 1992, Nigeria played a football match against South Africa. Hitherto, there were no formal diplomatic, economic or other ties with South Africa.

15. In furtherance of our support against racial segregation and apartheid, Nigeria continues to give financial, diplomatic and other assistance to the Liberation Movement in Namibia before independence (African National Congress of South Africa, Pan Africanist Congress of Azania). The National Committee against Apartheid continues to support eradication of apartheid through its many activities and publicize the evils of apartheid. From the revenue of the nation, the National Committee against Apartheid has support for its activities. There is also the Southern Africa Relief Fund. In 1989, the Special Namibia Endowment Fund was organized throughout the country to sensitize the Nigerian public to come to the assistance of the newly emerging nation and the target was naira 100 million. Furthermore, the Nigerian Foreign Minister led an Organization of African Unity delegation to South Africa to monitor the CODESA talks in 1992.

Article 4

16. With regard to article 4 of the Convention, it is important to refer to the extensive discussions by the Committee during the consideration of Nigeria's seventh periodic report and also during the submission of the eighth report. Nigeria conforms with the principles embodied in the Convention. However, our position on article 4(a) is that paragraph (d) of subsection (2) of Section 50 of the Nigerian Criminal Code which defined "seditious intention" is sufficient to criminalize racial discrimination as it is the official view of the Government that different "classes" of the population of Nigeria includes by necessary implication different races of the population. It is only a person who can be regarded as forming part of the population of Nigeria that can be discriminated against upon an account of race within Nigeria.

Article 5

17. Nigeria's social order is founded on ideals of freedom, equality and justice. In furtherance of this, Section 17 (a) of the Constitution provides that:

(a) every citizen shall have equality of rights, obligations and opportunities before the law.

18. It is, however, necessary at this point to reiterate that the provision concerning respect for fundamental human rights set out in Sections 30 - 40 in Chapter IV of the 1979 Constitution remain unchanged by the Constitution (Suspension and Modification) Decree No. 17 of 1985. The Sections are as hereunder listed:

Section 30 Right to life
" 31 Right to dignity of human person
" 32 Right to personal liberty
" 33 Right to fair hearing
" 34 Right to private family life

Section 35 Right to freedom of thought conscience and religion
" 36 Right to freedom of expression and the press
" 37 Right to peaceful assembly and association and the right to form and belong to a political party
" 38 Right to freedom of movement
" 39 Right to freedom from discrimination
" 40 Right against compulsory acquisition of property
" 41 Restriction on and derogation from fundamental rights.

19. As already stated the provisions of Section 39 of the 1979 Constitution serve as the anchor for the implementaion of the Convention, by prohibiting any discrimination against citizens of Nigeria on the basis of their community, ethnic group, place of origin, sex, religion or political opinion. All the rights listed under article 5 in their different categories are enshrined and guaranteed in the Nigerian Constitution. The language of Chapter IV on Fundamental Rights is mandatory.

20. Nigeria's military Government promotes, protects and respects human rights, the integrity of persons and freedom from political killings. There are no records of politically motivated or Government-instigated killings or disappearances in Nigeria. Government actions according to the Constitution shall be humane and the sanctity of the human person shall be recognized and human dignity shall be maintained and enhanced.

21. The Constitutional provision guaranteeing Nigerian citizens the right to move freely throughout the country and not to be expelled therefrom or refused entry thereto or exit therefrom remains unchanged. Right to peaceful assembly and association remains and has not been eroded. Nigerian workers 16 years or over may join trade unions except members of the armed forces and designated employees of essential government services at the federal, state and local levels. According to section 31(1)(b) and (c) of the 1979 Constitution of Nigeria, stating that no person shall be required to perform forced or compulsory labour, the Nigerian Government does not apply forced labour as a means of political coercion or as a sanction against free expression. As stated in the previous periodic reports, Nigeria has ratified the International Labour Organisation Convention in that regard. Every person can exercise the right of access to any place or service intended for use by the general public, with respect to transport, hotels, restaurants theatres etc. There is no problem of segregation in Nigeria.

22. In the area of politics, the present administration has done a great deal to carry politics to the grass-roots and every door step, and has also re-awakened citizens' exercise of political rights. Indeed it has been quite revolutionary in formulating the programme for transition to civil rule, which was promulgated in the Transition to Civil Rule (Political Programme) Decree No. 19 of 1987. To further ensure political rights of Nigerians in 1989 the Transition to Civil Rule (Political Parties Registration and Activities) Decree No. 27 was promulgated. The position presently is that both former and present Government officials and politicians may engage in political activities and run for elective offices. As a result of the Decree Participation in Politics and Elections (Miscellaneous Provision) in 1991 those politicians earlier arrested were released, and all Nigerians except those convicted or offences committed while in public office can participate

in politics. Further on the transition programme in 1991 an international conference was held at Abuja, Nigeria on democracy and law, where participants were addressed on the system of democracy by the former Vice President of the United States of America.

23. There are two political parties in Nigeria; the Social Democratic Party which is a little to the left and the National Republican Convention which is a little to the right. In their different manifestos, they both uphold the basic principles of fundamental rights, uplifting the general standards of the citizenry and in all, ensuring compliance with the tenets of Nigeria's Constitution.

24. Significant progress has been made in the implementation of the transition programme towards democratic civil rule. Local government elections were successfully conducted. Elections into State Assemblies and Governorship positions had also been held. Specifically, as part of the transition programme, a formula for election was evolved called "Option A4" which has been designed to enable every Nigerian to participate in the election of the Nigerian President. Elections will begin from the ward level to the local government; up to the State level and the national level.

25. It is worthy to note that Nigeria has made a contribution to the federal system of government - the emphasis on the third tier of government - local government, by giving a lot of responsibility to the local government.

26. A national census was conducted in November 1991. The result of the census put Nigeria's population at 88.5 million.

Article 6

27. The Nigerian courts are still vested with the power to enforce human rights and fundamental provisions of the Constitution not withstanding the amendment of the Constitution ((Suspension and Modification Decree No. 17 of 1984 by the Constitution (Suspension and Modification) (Amendment) Decree No. 17 of 1985). The courts continue to entertain complaints of infringement or anticipatory infringements of fundamental rights. On procedure for enforcement of fundamental rights, the Nigerian Supreme Court in Alhaji Dahiru Saude vs. Alhaji Halliru Abdullahi, four Nigerian Weekly Law Reports (NWLR), page 387, unanimously held that the manner in which an application for enforcement of fundamental rights under chapter IV of the 1979 Constitution is brought, is irrelevant once it is clear that such application seeks redress for infringement of the rights so guaranteed under the Constitution. In Albaji Abbas Tafida vs. Alhaji Sa'adu Abubakar and others (1992) three NWLR, page 511, the Federal Court of Appeal held that the High Court has jurisdiction by virtue of Order I rule 3(i) of the Fundamental Rights (Enforcement Procedure) Rules, 1979 to enlarge the time within which to commence an action for the enforcement of fundamental rights after the expiration of the prescribed period of 12. In Gani Fawehinmi vs. the State (1990) I NWLR, page 487, Babalakin. J.C.A. applied the ruling of the Supreme Court in the case of Aroyewun vs. Adebanji (1976) 11 Supreme Court 33 where it was stated that unsuspended provisions of the Constitution should be strictly adhered to and that obedience to our Constitution should be the mood of the nation.

Article 7

28. Nigeria has many activities in place geared towards public awareness and enlightenment based, among others, on the principles of the Universal Declaration of Human Rights and the United Nations Declaration on the Elimination of All Forms of Racial Discrimination. The principles of the Charter of the United Nations are also reflected in international relationships involving Nigeria.

29. Schools and university curricula for law and social sciences always include teachings on constitutional and huamn rights. The Nigeria Police College teach as the principles of human rights. The members of staff of the Nigerian Prisons Authority are also taught these principles. Seminars and conferences are held at good intervals in order to sensitize the public and keep people informed generally of international happenings; lectures on such issues are delivered at the Nigerian Institute of International Affairs - where membership of its library offers good opportunity of up-to-date information on contemporary happenings. The Nigerian Institute of Advanced Legal Studies carries out research and publishes books on topical legal issues. Nigerian universities exchange students with other universities all over the world, even lecturers are involved in exchange programmes.

30. During the period covered by this report many activities were carried out educating and informing the general public on social, political, economic and other rights. People were also mobilized as they became more enlightened and aware. The Directorate of Food, Roads and Rural Infrastructure also contributes immensely in this area.

31. It is also noteworthy to mention Nigeria's Better Life for Rural Women Programme. The amount of awareness as to possible contribution, especially among the women folk cannot be overemphasized. Each State of the Federation has its own chapter of the Better Life for Rural Women Programme. As already mentioned the National Committee against Apartheid continues its campaign against apartheid and racial segregation within and abroad.